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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Amendment of the Commission's Rules ) ET Docket No. 96-2  
to Establish a Radio Astronomy ) RM-8165  
Coordination Zone in Puerto Rico )

To: The Commission

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**Reply Comments of**  
**CELLULAR COMMUNICATIONS OF PUERTO RICO, INC.**

I. General Comments

Cellular Communications of Puerto Rico, Inc. ("CCPR") hereby submits these comments in reply to the initial comments filed by other parties in the above-captioned Docket. CCPR, through its affiliates, is the nonwireline cellular licensee in 11 of the 12 MSAs and RSAs in the Commonwealth of Puerto Rico, provides common carrier paging services in Puerto Rico, and maintains a common carrier microwave network to support the provision of these and other services. Although CCPR supports the work being done by the Arecibo Radio Astronomy Observatory (the "Observatory"), it opposes creation of the proposed Radio Astronomy Coordination Zone ("Coordination Zone" or the "Zone"). The proposed Coordination Zone would place an unwarranted burden on the citizens of Puerto Rico who would suffer delays in access to badly needed communications services. At the very least, if the Commission nonetheless does establish the proposed Zone, rules for coordination with the Observatory must be

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more specific with respect to what constitutes "harmful interference" and "reasonable technical modifications," and the Commission should clarify that existing frequency coordination procedures will fulfill the requirements of any rules that it adopts.

## II. Coordination Would Add Delays to the Provision of Services

As several commenters have pointed out, Puerto Rico is home to a rapidly growing economy that encompasses both dense urban areas and mountainous terrain.<sup>1</sup> Some areas of the islands have historically been underserved by communications providers.<sup>2</sup> The establishment of a Coordination Zone will slow down the provision of communications services to Puerto Rico at the very time when the Commission is taking steps to increase the speed and efficiency with which such services are provided to the rest of the nation. For example, pursuant to the Commission's new rules contained in Part 101, which become effective in August, point-to-point microwave licensees will be able to construct and operate facilities on the day their applications are submitted to the Commission.<sup>3</sup> In

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<sup>1</sup> Comments of Puerto Rico Telephone Company ("PRTC") at 2; Comments of Celpage, Inc. ("Celpage") at 9-10.

<sup>2</sup> Comments of PRTC at 12.

<sup>3</sup> 47 C.F.R. § 101.31(e); *see also* Terrestrial Microwave Fixed Radio Services, FCC 96-51 at ¶ 26 (Report and Order, released February 29, 1996) (noting that the purpose of the new rule is to allow the microwave industry to operate more efficiently).

contrast, if the Coordination Zone is established in Puerto Rico, the Observatory would have 20 days from that point to voice an objection to the proposed services. Thereafter the microwave operator would need to make "reasonable efforts to accommodate the Observatory." Especially in light of the vagueness involved in the Commission's proposed rules, as discussed further below, the result would mean a delay of several months beyond the time it would take to provide comparable services in the rest of the United States.

The proposed Coordination Zone would also be redundant with the requirements imposed by the Commonwealth of Puerto Rico. As the Commission and several commenters have noted, the Commonwealth has established a "Protection Zone" around the Observatory to minimize radiofrequency interference.<sup>4</sup> The establishment of a federal Coordination Zone will result in the wasteful duplication of efforts by two jurisdictions with similar purposes. The ultimate result will be further delay in the provision of services to the public in Puerto Rico.

### III. Precise Interference Standards are Necessary

As other parties have demonstrated in their comments, Puerto Rico is now a rapidly developing economy that relies upon modern telecommunications,

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<sup>4</sup> Radio Astronomy Coordination Zone in Puerto Rico, FCC 96-12 (Notice of Proposed Rule Making, released February 8, 1996) at ¶ 7; Comments of PRTC at 3-4.

including wireless.<sup>5</sup> The frequencies used for point-to-point microwave in the San Juan metropolitan area are especially congested, meaning that careful planning is required years and months ahead of the actual construction and operation of radio facilities in order to meet anticipated consumer demands and develop a system that is not soon outgrown or outmoded. Accordingly, it is patently unfair to both Commercial Mobile Radio Service providers and users to give unbridled discretion over a determination of "interference"<sup>6</sup> to a party that has a vested interest in limiting the spectrum usage in the Puerto Rico islands.<sup>7</sup> The future of mobile telecommunications in Puerto Rico cannot be left to a "we'll know it when we see it" standard of interference determination on the part of an entity with no experience in designing and implementing a communications network. Indeed, the Commission has been directed to make available rapid, efficient, and nation-wide communications services.<sup>8</sup> This task requires the establishment of clear and precise rules. The Commission certainly cannot

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<sup>5</sup> See Comments of PRTC at 2; 1993 Comments of Radiodifusores at 11.

<sup>6</sup> NPRM at ¶ 27 (Because specifying precise interference standards would be difficult, the Commission proposes to rely on the Observatory's good faith effort to evaluate the potential for interference).

<sup>7</sup> See Comments of PRTC at 8-9 (demonstrating that such vague and ill-defined terms as proposed by the Commission do not meet the requirements of the Administrative Procedure Act); Comments of Celpage, Inc. at 5.

<sup>8</sup> 47 U.S.C. § 151.

delegate so important a task to some other non-governmental entity.<sup>9</sup> If the Commission finds that a Coordination Zone is absolutely necessary, the Commission must also fulfill its statutory duty to the public by formulating precise standards for the ascertainment of "interference" within the Zone.

#### IV. The Commission Must Define "Reasonable Technical Modifications"

In the NPRM the Commission stated that if the Observatory finds that proposed applications would cause "harmful interference"<sup>10</sup> the applicant would be required to make "reasonable technical modifications" to its proposed facilities.<sup>11</sup> Once more, the Commission has failed to provide any guidance in its vague and imprecise statement. Accordingly, if a Coordination Zone is established, CCPR supports the proposal promulgated by the Society of Broadcast Engineers ("SBE") that "reasonable" efforts to accommodate the Observatory should be defined as modifications that do not (1) increase the applicant's costs or (2) delay the implementation of the applicant's project.<sup>12</sup>

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<sup>9</sup> See, Population Institute v. McPherson, 797 F.2d 1062, 1072 (D.C. Cir. 1986) (stating that where Congress has given part of its authority to an administrative agency, it is for the agency and the agency alone to exercise that authority).

<sup>10</sup> Which harm will apparently be obvious to the Observatory in the absence of any definitions or precise standards from the Commission.

<sup>11</sup> NPRM at ¶ 21.

<sup>12</sup> Comments of SBE at 3.

V. Applicants Need Flexibility in Satisfying Requirements

If the Commission determines that a new notification requirement in Puerto Rico is necessary to serve the public interest, it should also clarify that current requirements for pre-application frequency coordination would satisfy such a requirement. For example, in the Commission's rules for point-to-point microwave, coordination is required prior to the submission of an application.<sup>13</sup> In these and similar circumstances, if the Observatory is included on the list of coordinated parties, the Commission should find that no additional separate coordination with the Observatory is necessary. Additionally, providers of communications services within the Coordination Zone should have the ability to begin the 20-day notice period at their discretion at any time prior to the filing of their applications.

VI. Conclusion

The establishment of a Coordination Zone would place an unwarranted burden on the public in Puerto Rico at a time when improved communications services are badly needed. If the Commission determines that the establishment of a Radio Astronomy Coordination Zone in Puerto Rico is absolutely necessary to serve the public interest, it should (1) establish clear and precise standards for

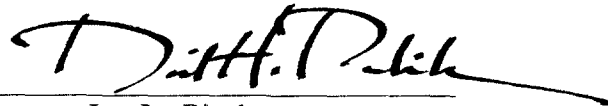
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<sup>13</sup> 47 C.F.R. §§ 21.706, 21.100(d), 47 C.F.R. § 74.638, 47 C.F.R. § 101.103(d).

the determination of "interference" within the Zone and (2) find that "reasonable" modifications to facilities are those that do not impose delays or additional costs on applicants. Finally, the Commission should determine that existing requirements for prior coordination satisfy the notification requirement if the Observatory is included as a coordinated party and that parties may begin notification procedures at any time prior to the submission of applications.

Respectfully submitted,

CELLULAR COMMUNICATIONS OF PUERTO RICO,  
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A handwritten signature in black ink, appearing to read "D. H. Pawlik", with a long horizontal flourish extending to the right.

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April 30, 1996

### CERTIFICATE OF SERVICE

I, Callalily Norcum, hereby certify that I have served the attached Reply Comments of Cellular Communications of Puerto Rico, Inc. by prepaid mail on this 30th day of April, 1996, to all the parties listed below:

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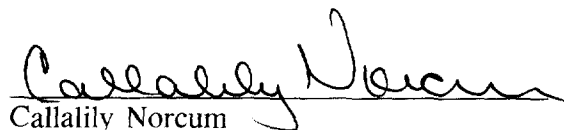
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